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 18 and AMERICAN VINTAGE BEVERAGE, INC.

REED SMITH LLP
 A limited liability partnership formed in the State of Delaware

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16
 17 MARK ANTHONY INTERNATIONAL, SRL, a
 18 Barbados corporation, and AMERICAN
 19 VINTAGE BEVERAGE, INC., a Delaware
 corporation,

No.: 3:12-cv-02105-RS

**STIPULATED PROTECTIVE
 ORDER**

20 Plaintiffs and Counter Defendants,

21 vs.

22 JACK DANIEL'S PROPERTIES, INC., a
 23 Delaware corporation,

24 Defendant and Counter Plaintiff.

25 1. **PURPOSES AND LIMITATIONS**

26 Disclosure and discovery activity in this action are likely to involve production of
 27 confidential, proprietary, or private information for which special protection from public disclosure
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1 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,
2 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
3 Order. The parties acknowledge that this Order does not confer blanket protections on all
4 disclosures or responses to discovery and that the protection it affords from public disclosure and use
5 extends only to the limited information or items that are entitled to confidential treatment under the
6 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that
7 this Stipulated Protective Order does not entitle them to file confidential information under seal;
8 Civil Local Rule 79-5 and General Order 62 set forth the procedures that must be followed and the
9 standards that will be applied when a party seeks permission from the court to file material under
10 seal.

12 2. DEFINITIONS

13 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
14 information or items under this Order.

15 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
16 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
17 Civil Procedure 26(c).

19 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
20 as their support staff).

21 2.4 Designating Party: a Party or Non-Party that designates information or items that it
22 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

25 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium
26 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
27 transcripts, and tangible things), that are produced or generated in disclosures or responses to

discovery in this matter.

2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the
litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a
consultant in this action, (2) is not a past or current employee of a Party or of a Party's competitor,
and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party's
competitor.

2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items:
extremely sensitive "Confidential Information or Items," disclosure of which to another Party or
Non-Party would create a substantial risk of serious harm that could not be avoided by less
restrictive means.

2.8 House Counsel: attorneys who are employees of a party to this action. House Counsel
does not include Outside Counsel of Record or any other outside counsel. In the case of Jack
Daniel's Properties, Inc., House Counsel includes attorneys employed by Brown-Forman
Corporation.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal
entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this action
but are retained to represent or advise a party to this action and have appeared in this action on
behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

2.11 Party: any party to this action, including all of its officers, directors, employees,
consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
Material in this action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g.,

1 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
2 storing, or retrieving data in any form or medium) and their employees and subcontractors.

3 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
4 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

5 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
6 Producing Party.

7 3. SCOPE

8 The protections conferred by this Stipulation and Order cover not only Protected Material (as
9 defined above), but also (1) any information copied or extracted from Protected Material; (2) all
10 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
11 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
12 However, the protections conferred by this Stipulation and Order do not cover the following
13 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
14 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
15 publication not involving a violation of this Order, including becoming part of the public record
16 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
17 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
18 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
19 Protected Material at trial shall be governed by a separate agreement or order.

20 4. DURATION

21 Even after final disposition of this litigation, the confidentiality obligations imposed by this
22 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
23 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
24 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
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1 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the
2 time limits for filing any motions or applications for extension of time pursuant to applicable law.
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4 **5. DESIGNATING PROTECTED MATERIAL**

5 **5.1 Exercise of Restraint and Care in Designating Material for Protection.** Each Party or
6 Non-Party that designates information or items for protection under this Order must take care to
7 limit any such designation to specific material that qualifies under the appropriate standards. To the
8 extent it is practical to do so, the Designating Party must designate for protection only those parts of
9 material, documents, items, or oral or written communications that qualify – so that other portions of
10 the material, documents, items, or communications for which protection is not warranted are not
11 swept unjustifiably within the ambit of this Order.

12 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
13 to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to unnecessarily
14 encumber or retard the case development process or to impose unnecessary expenses and burdens on
15 other parties) expose the Designating Party to sanctions.

16 If it comes to a Designating Party's attention that information or items that it designated for
17 protection do not qualify for protection at all or do not qualify for the level of protection initially
18 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the
19 mistaken designation.

20 **5.2 Manner and Timing of Designations.** Except as otherwise provided in this Order (see,
21 *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
22 Discovery Material that qualifies for protection under this Order must be clearly so designated
23 before the material is disclosed or produced.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (*e.g.*, paper or electronic documents, but excluding

transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted.

A Party or Non-Party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted.

(b) for testimony given in deposition, the entire transcript shall automatically be treated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” for 21 days. After 21 days has passed, the transcript shall lose such designation and become unprotected unless the testifying party designates in good faith portions of the transcript as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under this Stipulated Protective Order.

Parties shall give the other parties notice if they reasonably expect a deposition, hearing or

1 other proceeding to include Protected Material so that the other parties can ensure that only
2 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
3 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
4 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
5 ATTORNEYS’ EYES ONLY.”

6 Transcripts containing Protected Material shall have an obvious legend on the title page that
7 the transcript contains Protected Material, and the title page shall be followed by a list of all pages
8 (including line numbers as appropriate) that have been designated as Protected Material and the level
9 of protection being asserted by the Designating Party. The Designating Party shall inform the court
10 reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day
11 period for designation shall be treated during that period as if it had been designated “HIGHLY
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety. After the expiration of that
13 period, the transcript shall be treated only as actually designated.

14 (c) for information produced in some form other than documentary and for any other tangible
15 items, that the Producing Party affix in a prominent place on the exterior of the container or
16 containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only a portion or portions of the information
18 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
19 portion(s) and specify the level of protection being asserted.

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
21 designate qualified information or items does not, standing alone, waive the Designating Party’s
22 right to secure protection under this Order for such material. Upon timely correction of a
23 designation, the Receiving Party must make reasonable efforts to assure that the material is treated in
24 accordance with the provisions of this Order.

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
3 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,
5 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a
6 confidentiality designation by electing not to mount a challenge promptly after the original
7 designation is disclosed.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
9 by providing written notice of each designation it is challenging and describing the basis for each
10 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
11 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
12 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
13 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
14 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
15 Party must explain the basis for its belief that the confidentiality designation was not proper and
16 must give the Designating Party an opportunity to review the designated material, to reconsider the
17 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
18 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
19 has engaged in this meet and confer process first or establishes that the Designating Party is
20 unwilling to participate in the meet and confer process in a timely manner.

21 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
22 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil
23 Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if applicable)
24 within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the
25

1 meet and confer process will not resolve their dispute, whichever is earlier. Each such motion must
2 be accompanied by a competent declaration affirming that the movant has complied with the meet
3 and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to
4 make such a motion including the required declaration within 21 days (or 14 days, if applicable)
5 shall automatically waive the confidentiality designation for each challenged designation. In
6 addition, the Challenging Party may file a motion challenging a confidentiality designation at any
7 time if there is good cause for doing so, including a challenge to the designation of a deposition
8 transcript or any portions thereof. Any motion brought pursuant to this provision must be
9 accompanied by a competent declaration affirming that the movant has complied with the meet and
10 confer requirements imposed by the preceding paragraph.

12 The burden of persuasion in any such challenge proceeding shall be on the Designating
13 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
14 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
15 Unless the Designating Party has waived the confidentiality designation by failing to file a motion to
16 retain confidentiality as described above, all parties shall continue to afford the material in question
17 the level of protection to which it is entitled under the Producing Party's designation until the court
18 rules on the challenge.

20 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

21 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
22 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
23 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
24 the categories of persons and under the conditions described in this Order. When the litigation has
25 been terminated, a Receiving Party must comply with the provisions of section 13 below
26 (FINAL DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a location and in a
2 secure manner that ensures that access is limited to the persons authorized under this Order.
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4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by
5 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
6 information or item designated “CONFIDENTIAL” only to:
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8 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
9 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
10 this litigation;
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12 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party
13 to whom disclosure is reasonably necessary for this litigation and who have signed the
14 “Acknowledgment and Agreement to Be Bound” (in the form attached hereto as Exhibit A);
15

16 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
17 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement
18 to Be Bound” (Exhibit A);
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20 (d) the court and its personnel;
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22 (e) court reporters and their staff, professional jury or trial consultants, and Professional
23 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
25

26 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
27 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
28 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
deposition testimony or exhibits to depositions that reveal Protected Material must be separately
bound by the court reporter and may not be disclosed to anyone except as permitted under this
Stipulated Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"

Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation;

(b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a), below, have been followed;

(c) the court and its personnel;

(d) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

(e) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts, “CONFIDENTIAL,” or

“HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information or items may be disclosed to an Expert as long as the Expert is not a current officer, director, or employee of a competitor of a Party or anticipated to become one.

1 8. PROTECTED MATERIAL SUBPOENED OR ORDERED PRODUCED IN OTHER
 2 LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure
 4 of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY
 5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall include a copy of
 7 the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
 9 other litigation that some or all of the material covered by the subpoena or order is subject to this
 10 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

11 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
 12 Designating Party whose Protected Material may be affected.¹

13 If the Designating Party timely seeks a protective order, the Party served with the subpoena
 14 or court order shall not produce any information designated in this action as “CONFIDENTIAL” or
 15 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a determination by the court
 16 from which the subpoena or order issued, unless the Party has obtained the Designating Party’s
 17 permission. The Designating Party shall bear the burden and expense of seeking protection in that
 18 court of its confidential material – and nothing in these provisions should be construed as
 19 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from
 20 another court.

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 27 ¹ The purpose of imposing these duties is to alert the interested parties to the existence of this
 28 Protective Order and to afford the Designating Party in this case an opportunity to try to protect
 its confidentiality interests in the court from which the subpoena or order issued.

1 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
 2 LITIGATION

3 (a) The terms of this Order are applicable to information produced by a Non-Party in this
 4 action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
 5 EYES ONLY". Such information produced by Non-Parties in connection with this litigation is
 6 protected by the remedies and relief provided by this Order. Nothing in these provisions should be
 7 construed as prohibiting a Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
 9 Party's confidential information in its possession, and the Party is subject to an agreement with the
 10 Non-Party not to produce the Non-Party's confidential information, then the Party shall:

12 1. promptly notify in writing the Requesting Party and the Non-Party that some or all of
 13 the information requested is subject to a confidentiality agreement with a Non-Party;

14 2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
 15 litigation, the relevant discovery request(s), and a reasonably specific description of the information
 16 requested; and

17 3. make the information requested available for inspection by the Non-Party.

19 (c) If the Non-Party fails to object or seek a protective order from this court within 14
 20 days of receiving the notice and accompanying information, the Receiving Party may produce the
 21 Non-Party's confidential information responsive to the discovery request. If the Non-Party timely
 22 seeks a protective order, the Receiving Party shall not produce any information in its possession or
 23 control that is subject to the confidentiality agreement with the Non-Party before a determination by
 24 the court.² Absent a court order to the contrary, the Non-Party shall bear the burden and expense of

26 2 The purpose of this provision is to alert the interested parties to the existence of confidentiality
 27 rights of a Non-Party and to afford the Non-Party an opportunity to protect its confidentiality
 28 interests in this court.

1 seeking protection in this court of its Protected Material.

2 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

3 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
4 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
5 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
6 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
7 inform the person or persons to whom unauthorized disclosures were made of all the terms of this
8 Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to
9 Be Bound” that is attached hereto as Exhibit A.

10 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
12 MATERIAL

13 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced
14 material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties
15 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
16 modify whatever procedure may be established in an e-discovery order that provides for production
17 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
18 parties reach an agreement on the effect of disclosure of a communication or information covered by
19 the attorney-client privilege or work product protection, the parties may incorporate their agreement
20 in the stipulated protective order submitted to the court.

21 12. MISCELLANEOUS

22 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
23 its modification by the court in the future.

24 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
25 no Party waives any right it otherwise would have to object to disclosing or producing any

1 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
2 Party waives any right to object on any ground to use in evidence of any of the material covered by
3 this Protective Order.

4 12.3 Filing Protected Material. Without written permission from the Designating Party or a
5 court order secured after appropriate notice to all interested persons, a Party may not file in the
6 public record in this action any Protected Material. A Party that seeks to file under seal any
7 Protected Material must comply with Civil Local Rule 79-5 and General Order 62. Protected
8 Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific
9 Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General Order 62, a sealing order
10 will issue only upon a request establishing that the Protected Material at issue is privileged,
11 protectable as a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's
12 request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) and General Order
13 62 is denied by the court, then the Receiving Party may file the Protected Material in the public
14 record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the court.
15

16 13. FINAL DISPOSITION
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18 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
19 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
20 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
21 summaries, and any other format reproducing or capturing any of the Protected Material. Whether
22 the Protected Material is returned or destroyed, the Receiving Party must submit a written
23 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
24 by the 60-day deadline that (1) identifies all the Protected Material that was returned or destroyed
25 and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations,
26 summaries or any other format reproducing or capturing any of the Protected Material except as
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1 permitted under this Protective Order. Notwithstanding this provision, Counsel are entitled to retain
2 an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
3 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and
4 consultant and expert work product, even if such materials contain Protected Material. Any such
5 archival copies that contain or constitute Protected Material remain subject to this Protective Order
6 as set forth in Section 4 (DURATION). In addition, this provision does not require the Receiving
7 Party to search through or delete automatically generated computer backup files that are created for
8 disaster recovery purposes (e.g., computer backup tapes), if such files are not readily accessible.
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10 14. INFORMATION/DOCUMENTS DISCLOSED IN RELATED TTAB ACTION

11 All information or documents designated as “Confidential” in *Jack Daniel's Properties, Inc.*
12 *v. Mark Anthony International SRL*, Opposition No. 91196371 (Trademark Trial and Appeal Board)
13 (the “TTAB Action”) shall be treated as if designated “CONFIDENTIAL” under this Stipulated
14 Protective Order. All information or documents designated as “Highly Confidential” or “Trade
15 Secret/Commercially Sensitive” in the TTAB Action shall be treated as if designated “HIGHLY
16 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under this Stipulated Protective Order.
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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: September 19, 2012

By: /s/ Robert N. Phillips

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SO ORDERED this 20th day of September, 2012.



HON. RICHARD SEEBORG
United States District Court Judge

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and
understand the Stipulated Protective Order that was issued by the United States District Court for the
Northern District of California on _____ [enter date] in the case of *Mark Anthony*
International, SRL, et al. v. Jack Daniel's Properties, Inc., Case No. 3:12-cv-02105 (RS). I agree to
comply with and to be bound by all the terms of this Stipulated Protective Order and I understand
and acknowledge that failure to so comply could expose me to sanctions and punishment in the
nature of contempt. I solemnly promise that I will not disclose in any manner any information or
item that is subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Northern District of California for the purpose of enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number] as
my California agent for service of process in connection with this action or any proceedings related
to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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